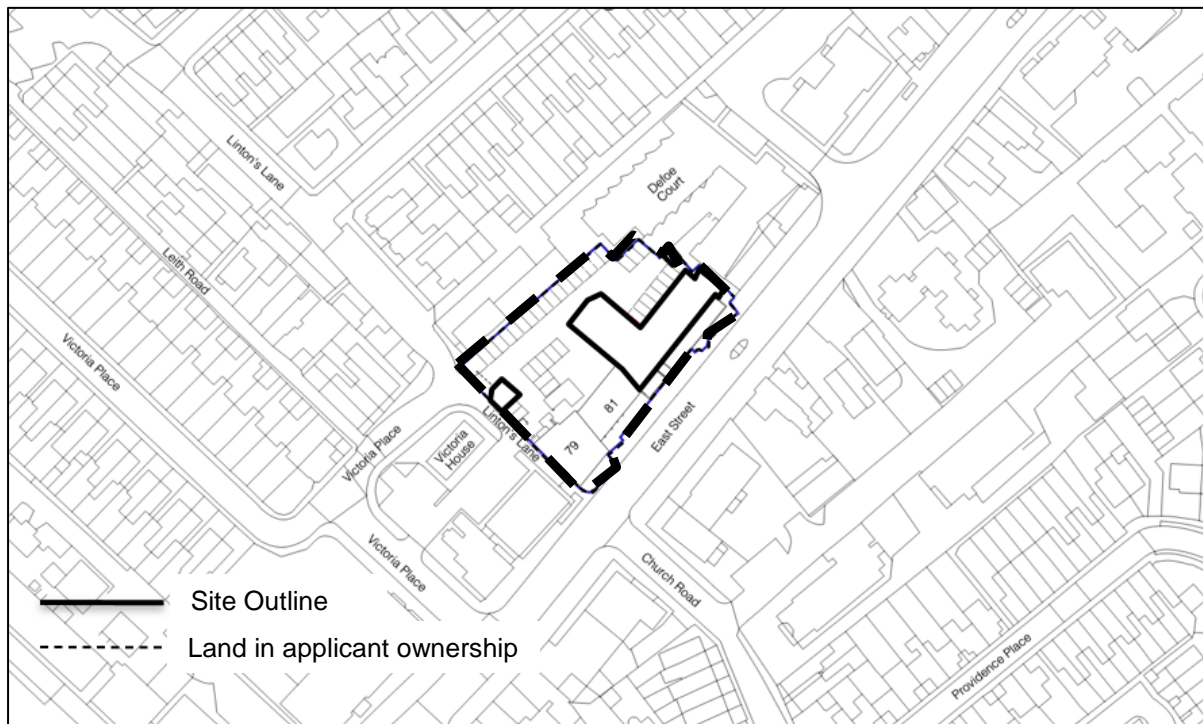


**Kingshott House, 83 - 85 East Street, Epsom, Surrey, KT17 1FA**

<b>Application Number</b>	22/01954/FUL
<b>Application Type</b>	Full Planning Permission (Minor)
<b>Address</b>	Kingshott House 83 East Street Epsom KT17 1FA
<b>Ward</b>	Town Ward
<b>Proposal</b>	Fourth floor roof extension to 83-85 East Street to provide three new residential apartments (comprising 1 x 1-bed unit; 1 x 2-bed unit; 1 x 3-bed unit) together with works to stair and lift cores and other associated works
<b>Reason for Committee</b>	Call in by Ward Member
<b>Recommendation</b>	Approval, subject to conditions, informatives and s106 legal agreement
<b>Expiry Date</b>	18 December 2023
<b>Case Officer</b>	Gemma Paterson
<b>Contact Officer</b>	Simon Taylor
<b>Plans and Documents</b>	Found at the following link: <a href="#">83-85 East Street</a>
<b>Glossary of Terms</b>	Found at the following link: <a href="#">Glossary and Terms</a>



**SUMMARY**

**1 Summary and Recommendation**

- 1.1 The application is recommended for approval, subject to the completion of a Section 106 agreement to prevent future residents being in possession of a parking permit and conditions and informatives. If the Section 106 Agreement is not completed by 14 June 2024 (ie within six months), the Head of Place is authorised to refuse the application.

- 1.2 The application has been called to committee by the Local Ward Member in accordance with the Epsom and Ewell Borough Council's Scheme of Delegation. The reasons given were:

*Although it is only 3 new residential units it was a converted office block under the government allowed scheme and there will now be over 10 units, the definition of a major.*

*There is also the complexity of the current owner/occupiers who are very concerned, and some of their concerns will not be planning issues, but for transparency I believe that the debate and decision should be in the public arena.*

*I am also concerned with the connection of the application next door, effectively on the same site as the owner owns both sites.*

*I am surprised that they are allowed to split the development scheme into two (or more to come?).*

- 1.3 The application seeks planning permission for the erection of a fourth floor roof extension to 83-85 East Street to provide three new residential apartments (comprising 1 x 1-bed unit; 1 x 2-bed unit and 1 x 3-bed unit) together with works to stair and lift core.
- 1.4 The proposal also involves the erection of a cycle store and the extension of the existing refuse/recycle storey adjacent to Linton's Lane.
- 1.5 The proposed development would contribute 3 new houses towards delivering the Council's housing target and would therefore be consistent with the Framework and Council policy in so far as it seeks to significantly boost the supply of homes. The proposal would also create a choice and mix of housing, thereby contributing towards the Borough being comprised of balanced and sustainable communities.
- 1.6 Whilst the proposal would cause less than substantial harm to the setting of the Linton's Lane Conservation Area and the listed buildings at 1, 3, 10 and 12 Linton's Lane, even when giving great weight to the desirability of preserving the setting of the surrounding heritage assets, the public benefits would outweigh the less than substantial harm identified.

- 1.7 The proposal would meet the requirements of the National and local requirements for internal floor area and the provision of private communal amenity space within this scheme is regarded to be sufficient to meet the recreation needs of future occupiers.
- 1.8 The site is located within a main settlement, town centre location that is near to public transport, which offers a mode of transport other than the private car. The site is therefore in a highly suitable location in sustainable transport terms for new residential uses.
- 1.9 The proposed development would not result in adverse traffic generation or result in any issues to highway safety or to the operation of the highway network.
- 1.10 As a car free development, the proposal would not meet the Council's parking standards, with a shortfall of 3.0 vehicle parking. Notwithstanding a recommendation to secure a clause within a Section 106 Agreement to prevent occupation or use of the development by a person or persons(s) in possession of an Epsom and Ewell Residents Parking Zone Permit, the failure to provide vehicle parking in accordance with local policy is an adverse impact in the planning balance.
- 1.11 The proposed development would be constructed above the existing host building to create a fifth floor. Whilst the resulting height would be notably taller than the existing buildings it surrounds, taken within the wider context, the resulting development would be identifiable as part of the gradual transitional passage between the suburban character of the far east of East Street (heading towards Ewell) and the larger, close-knit built form to the west of East Street, denoting the approach into the town centre.
- 1.12 The overall design of the proposed fourth floor is considered to be acceptable, as the extension would be set back from the main mass of the host building and a façade of panels and columns and contrasting materials would add some visual interest to the existing building.
- 1.13 It has also been satisfactorily demonstrated that a development of this scale could be provided on the site that does not have a harmful impact on neighbouring residential amenity, subject to conditions to secure details of privacy screening and to prevent new windows in the future.
- 1.14 The proposal would accord with the Council's policies in relation to ecology and environmental sustainability.
- 1.15 The Council currently does not have a 5-year housing land supply. This means that the "presumption in favour of sustainable development" (paragraph 11 of the NPPF 2023, also known colloquially as the 'tilted balance') is engaged, and that planning permission should be granted

unless any adverse impacts significantly and demonstrably outweigh the benefits, when assessed against the NPPF 2023 as a whole.

- 1.16 Overall, whilst there are adverse effects in respect of this application, these would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, or where specific policies in the Framework indicate that development should be restricted. The application is therefore recommended for approval.

#### KEY INFORMATION

	Existing	Proposed
Site Area	0.04 Hectares	
Units	32	35 (net increase of 3)
Density	800 dwellings per hectare	875 dwellings per hectare
Height	13-15.7m (four storeys)	15.8-17.8m (five storeys)
Affordable Housing Units	0	0
Car Parking Spaces	27	27 (no net increase)
Cycle Parking Spaces	0	3

#### SITE AND PROPOSAL

## 2 Description of Site

- 2.1 The application site contains an existing four storey residential building (Kingshott House and Jukes House). The site is bounded to the north west by 81 East Street, a two storey music academy, and Dafoe Court to the north east, supporting living accommodation ranging from 2 – 4 storeys in height.
- 2.2 The built form surrounding the site is diverse in scale, varying up to a maximum of 5 storeys. There are a mix of uses surrounding the site, including residential, commercial, office, supported living and educational premises, accommodated in built form of varying heights, between 2 and 5 storeys.
- 2.3 The site is located adjacent to the Linton's Lane Centre Conservation Area boundary to the north west of the site. Providence Place Conservation Area extends towards the south east beyond main East Street highway. To the north west of the site there are multiple listed buildings with a direct view of the site. Locally listed buildings lie beyond the East Street highway.

### 3 Description of Proposal

3.1 The proposal involves the following:

- The erection of an extension above the fourth floor of the building, wholly contained within the existing footprint.
- The extension would measure 10.5 – 26.0 metres in width, 3.4 metres (5.0 m to top of lift shaft) 9.0 metres to 20.5 metres in depth and would have a height of 3.4 metres (4.9m to top lift shaft). The overall height from ground level would be of 15.8 m (17.8 m to top lift shaft)
- The erection of a secure cycle storage facility and extension to existing bin storage area (details of both to be secured via condition in the event planning permission is granted)

#### CONSULTATIONS

Internal Consultees	
Conservation	No objection subject to conditions
Ecology	No comments received
Contaminated Land	No comments received
Trees	No comments received
Waste	No comments received
External Consultees	
Highway Authority	No objection subject to conditions
Flood Authority	No objection subject to condition
Environment Agency	No comments received
Police	No comments received
Public Consultation	
Neighbours	<p>The application was advertised by means of a site notice, press notice, and notification to adjoining neighbouring properties. 26 submissions were received, three of which were from the same address and an additional two of which were from the same address. They raised the following issues:</p> <ul style="list-style-type: none"> <li>• Design not in keeping with current building</li> <li>• Building already too large</li> <li>• Building to height and out of character with rest of neighbourhood</li> <li>• Additional mass an overdevelopment of area</li> <li>• Impact on buildings within the Conservation Area</li> </ul>

- More traffic generation
- Car park is currently oversubscribed
- Impact on parking for existing residents with parking permits having to find parking further afield
- Existing lift will be unavailable for a lengthy period of time
- Disruption to local residents
- Noise/dust/pollution/temporary loss of some amenities during construction process
- Loss of light to houses behind the site
- Loss of light and overshadowing from cranes and scaffolding
- Terrace directly opposite 5 Jukes House, causing noise/disturbance
- No immediate needs for this building to be redeveloped following previous conversion
- Additional waste cannot be supported
- Breach of the GPDO Class A, Part 20
- Buildings converted from office are no purpose built, not structurally sound for extension
- Existing issues with roof of Kingshott and Dukes House, causing damp, mould and flooding. Additional storey likely to damage the roof further.
- Proposal will cause additional strain on existing faulty windows causing severe damage
- Breach of Lease; right to quiet enjoyment

Officer comment: Whilst the conversion of the existing buildings from Offices to Residential was carried out under the prior approval process, this does not prevent the submission of a full planning application of this nature being pursued and the submission of a full planning application does not represent a breach of the permissions that were completed on site under the prior approval process.

	<p>With respect to the structural integrity and of the existing roof, this is a matter for building regulations to assess and cannot therefore be considered as a material planning consideration. The matter pertaining to the existing windows and the impact of the proposed development upon the structural integrity of these windows are also matter for building regulations and cannot be considered as a material planning consideration.</p> <p>The breach of a tenancy lease is a matter for the relevant third parties and is not a material planning consideration</p> <p>All other concerns raised by third parties form material considerations and are discussed in the body of the report.</p>
Ward Member	Comments as per paragraph 1.2 of this report
Residents Association	No comments were received.

## PROPERTY HISTORY

App No.	Description	Status
16/00504/ PDCOU	Change of use of the building from B1 (office) into 16 residential flats (C3)	Prior Approval Required and Permitted 23 August 2016
15/00872/ PDCOU	Change of use of No.85 from B1 (office) into 8 residential flats (C3)	Prior Approval Required and Permitted 06 November 2023
15/00494/ PDCOU	Change of use of the building from B1 (office) into 16 residential flats (C3)	Prior Approval Required and Permitted 18 August 2023

## SITE CONSTRAINTS

- Built Up Area
- Town Centre
- Adjacent to Listed Building (Grade II)
- Adjacent to Linton's Lane Conservation Area
- Site of Special Scientific Interest Risk Area

## PLANNING POLICY AND GUIDANCE

### National Planning Policy Framework 2021 (NPPF)

- Section 2: Achieving Sustainable Development
- Section 4: Decision-Making
- Section 5: Delivering a Sufficient Supply of Homes
- Section 8: Promoting Healthy and Safe Communities
- Section 9: Promoting Sustainable Transport
- Section 11: Making Effective Use of Land
- Section 12: Achieving Well-Designed Places

- Section 14: Meeting the Challenge of Climate Change, Flooding and Coastal Change
- Section 15: Conserving and Enhancing the Natural Environment
- Section 16: Conserving and Enhancing the Historic Environment

**Epsom and Ewell Core Strategy 2007 (CS)**

- Policy CS3: Biodiversity and Designated Nature Conservation Areas
- Policy CS5: The Built Environment
- Policy CS6: Sustainability in New Development
- Policy CS7: Housing Provision
- Policy CS14: Epsom Town Centre
- Policy CS16: Managing Transport and Travel

**Epsom and Ewell Development Management Policies Document 2015 (DMPD)**

- Policy DM4: Biodiversity and New Development
- Policy DM8: Heritage Assets
- Policy DM9: Townscape Character and Local Distinctiveness
- Policy DM10: Design Requirements for New Developments
- Policy DM11: Housing Density
- Policy DM12: Housing Standards
- Policy DM13: Building Heights
- Policy DM17: Contaminated Land
- Policy DM19: Development and Flood Risk
- Policy DM35: Transport and New Development
- Policy DM36: Sustainable Transport for New Development
- Policy DM37: Parking Standards

**Epsom Town Centre Area Action Plan 2011 (Plan E)**

- Policy E1: Town Centre Boundary
- Policy E2: Housing Capacity in the Town Centre

**Supplementary Planning Documents and Guidance**

- Parking Standards for Residential Development Supplementary Planning Document 2015
- Surrey County Council Vehicular and Cycle Parking Guidance 2018
- Surrey Transport Plan 2022–2032
- Sustainable Design Supplementary Planning Document 2016

**Other Documentation**

- Technical Housing Standards – Nationally Described Space Standards 2015
- Community Infrastructure Levy Charging Schedule 2014
- Strategic Housing Market Assessment Update 2019



## **APPRAISAL**

### **4    Presumption in Favour of Sustainable Development**

- 4.1    Paragraph 11 of the NPPF stipulates that development proposals which accord with an up-to-date development plan should be approved and where a proposal conflicts with an up-to-date development plan, permission should not usually be granted. Currently, the Council does not have an up-to-date development plan on account of not being able to demonstrate a five-year supply of housing.
- 4.2    Paragraph 11(d) is engaged as the Council's policies which are most important for determining the application are out-of-date. The practical application and consequence of this is that unless the site is in an area or affects an asset of particular importance that provides a clear reason for refusal, then permission must be granted unless it can be demonstrated that any adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the NPPF as a whole.

### **5    Principle of Development**

#### **Location of Development**

- 5.1    The site is located within the built-up area of Epsom and Epsom Town Centre where the principle of development is acceptable in terms of the principles, objectives and policies in the CS, the DMPD and supporting guidance and documents.

#### **Housing Delivery**

- 5.2    Paragraph 60 of the NPPF aims to significantly boost the supply of homes in areas where it is needed and addressing specific needs. Policy CS7 of the CS seeks to meet housing requirements in accordance with Policy H1 of the South East Plan which is at least 2,715 homes within the period 2007-2022 or 181 new dwellings per annum.
- 5.3    The Council has calculated its five-year housing land supply position as being 1.56 years. The Council is presently falling significantly short of this requirement and cannot presently demonstrate five years housing land supply.
- 5.4    Policy E1 of Plan E, Epsom Town Centre Area Action Plan 2011 permits, in principle and subject to other relevant policies, higher density housing.
- 5.5    Policy E2 of Plan E, Epsom Town Centre Area Action Plan 2011 seeks to deliver at least 635 new residential units within the Town Centre during the period 2011 and 2026.

- 5.6      Given the significant housing need within the Borough, an increased residential use of the site within a sustainable location is acceptable in principle, subject to the below other material planning considerations.

## **6      Impact on Heritage Assets**

- 6.1      Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, states that in considering applications which affect Listed Buildings, Local Planning Authorities must have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- 6.2      The application of the statutory duties within Sections 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 combined with the guidance contained in the NPPF means that when harm is identified, whether that be less than substantial or substantial harm, it must be given considerable importance and great weight.
- 6.3      Additionally, the NPPF attaches great importance to the conservation and enhancement of the historic environment. Paragraph 199 states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.
- 6.4      Paragraph 200 of the NPPF states that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Substantial harm to or loss of:
- a)      grade II listed buildings, or grade II registered parks or gardens, should be exceptional;
  - b)      assets of the highest significance, notably scheduled monuments, protected wreck sites, registered battlefields, grade I and II\* listed buildings, grade I and II\* registered parks and gardens, and World Heritage Sites, should be wholly exceptional
- 6.5      Paragraph 201 of the NPPF states that where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:
- a)      the nature of the heritage asset prevents all reasonable uses of the site; and

- b) no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and
  - c) conservation by grant-funding or some form of not for profit, charitable or public ownership is demonstrably not possible; and
  - d) the harm or loss is outweighed by the benefit of bringing the site back into use.
- 6.6 Paragraph 202 of the NPPF states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
- 6.7 Whilst there is no statutory protection for the setting of a Conservation Area, paragraph 200 of the NPPF requires that consideration be given to any harm to or loss of significance of a designated asset, which includes Conservation Areas, from development within its setting.
- 6.8 This is further supported by paragraph 206 of the NPPF which states that local planning authorities should look for opportunities for new development within Conservation Areas and World Heritage Sites, and within the setting of heritage assets, to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably.”
- 6.9 Appendix 2 Glossary of the NPPF defines setting of a heritage assets as the surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.
- 6.10 Policy DM8 of the Development Management Policies Document 2015, set outs the Council’s intention to resist the loss of our Heritage Assets and take every opportunity to conserve and enhance them. It states that development proposals that involve or have an effect upon Heritage Assets must establish the individual significance of the Asset as part of the application or consent process. As part of the assessment process the significance of the Asset will be taken into account (namely whether it is a designated Heritage Asset or a non-designated Heritage Asset) when determining whether the impact of any proposed development is acceptable.
- 6.11 The site shares a boundary with Linton Lane Conservation Area. This designated heritage asset is largely characterised by two streets of late 19th century post railway residential development. Key aspects which reveal this include the uniformity of house types (including scale and massing), rectilinear street pattern, the predominant use of brick and slate

on earlier buildings and a variety of materials on later buildings on Middle Lane.

- 6.12 The dwellings on Linton's Lane in the Conservation Area pre-date the railway housing and are evident in their reduced scale and traditional materials including flint and weatherboarding. This was a much earlier byway than the rest of the Conservation Area which accounts for the older dwellings on this road, which include 1, 3 and 10-12 (Grade II) and 7-9, 11 and 15-17 (locally listed).
- 6.13 To the south of the site is Providence Place Conservation Area, which consists of two streets containing terraced cottages from c1865 and c1880. The appraisal for the area notes they are a good example of the type of development which followed the building of the railway through Epsom in the mid-19 Century.
- 6.14 106 – 110 East Street are locally listed buildings comprising a set of mid-19<sup>th</sup> century dwellings which have been significantly altered.
- 6.15 This application is accompanied by a Heritage Statement, prepared by Heritage Information Ltd, dated December 2022 which concludes that the proposal would create architectural and visual interest on an otherwise bland and unattractive building that would have a minimum and neutral to positive impact on the setting of the Conservation Area and nearby heritage assets.
- 6.16 The Council's Conservation Officer notes that the existing building already has a harmful impact on the setting of the Linton's Lane Conservation Area. The Conservation Officer agrees with the conclusion of the Heritage Statement in that the height, bulk, scale and massing of the extension will cause a minimal to moderate and neutral to negative contribution to the setting of the Linton's Lane Conservation Area and other nearby heritage assets.
- 6.17 The Council's Conservation Officer agree that this contribution translates into a low level of less than substantial harm. For clarity, the Council's Conservation Officer advises that this is only a low level of harm because of the limited views of the building and the fact that this is an extension to it, rather than a wholly new development.
- 6.18 However, the Council's Conservation Officer does not agree with the Heritage Statement in that the visually lightweight nature of the development would result in improvements to the existing building that would otherwise outweigh low level of less than substantial harm. This is because of the resulting greater height and solid proportions on the elevations visible from the rest of the building, in comparison to the more lightweight elements facing East Street.

- 6.19 In conclusion, the Council's Conservation Officer considered that the proposal would cause a low degree of less than substantial harm to significance of the setting of Linton's Lane Conservation Area and 1, 3, 10 and 12 Linton's Lane. This harm is through the poor design of the development, which would further increase the bulk and massing of a building which already causes harm to the setting of these heritage assets.
- 6.20 The Council's Conservation Officer has also taken in to account the separate application under 22/01953/FUL at 79-81 East Street and has confirmed that with or without this proposed adjacent development, the proposal would still be accorded a low level of less than substantial harm, as it would be a visible feature that would increase the scale, bulk and massing of the existing building.
- 6.21 Whilst it is acknowledged that the courts have made it clear that there is no spectrum of degree of harm within the less than substantial harm category (James Hall v City of Bradford Metropolitan 2019), as the Council's Conservation Officer has identified less than substantial harm to the significance of the setting of the Linton's Lane Conservation Area and 1, 3, 10 and 12 Lintons Lane, in accordance with paragraph 202 of the NPPF, this harm must be weighed against any public benefits of the proposal. Great weight should be given to the asset's conservation irrespective of the scale of harm identified.
- 6.22 The NPPF identifies that public benefits could be anything that delivers economic, social or environmental progress, as described in paragraph 7. The NPPG further states that public benefits should flow from the proposed development. They should be of a nature or scale to be of benefit to the public at large and should not just be a private benefit. However, benefits do not always have to be visible or accessible to the public in order to be genuine public benefits (020 Reference ID: 18a-020-2019072).
- 6.23 The public benefits of the proposed development are considered to be:
- The contribution of net gain residential development to the Borough housing figures at a time that the Council cannot identify a five-year housing land supply and in considering the extent of the Council's housing shortfall and how long the deficit is likely to persist, given the timetable for the emerging Local Plan. Officers consider that significant weight is attached to this public benefit.
  - The social benefits from an increase in choice and types of homes for different members of the community in proximity to the town centre and railway station. Officers consider that significant weight is attached to this public benefit.

- The generation of economic benefits from the employment during the construction phase of the proposed development. However, as this benefit is temporary, limited weight is attached to this public benefit.
- The direct economic and social benefits from investment into the nearby town centre from future residents, adding to the vitality and viability of the town centre. Although and there is no evidence to suggest that the local economy would be disadvantaged without the expenditure generated from the proposed development, it is likely to provide some minor investments. For this reason, limited weight is attached to this public benefit.

6.24 Officers give considerable importance and weight to the desirability of preserving the setting and the features of special architectural and historic interest of the surrounding heritage assets. However, notwithstanding the considerable importance and weight that the less than substantial harm attracts, in this case, the accrued public benefits are considered to outweigh the less than substantial harm arising from the proposal.

6.25 Should permission be granted, conditions to secure details of materials are recommended. Given that the use of high-quality materials and detailing is key to the proposed development appearing appropriate adjacent to a historic and architectural setting, it would be reasonable to recommend this condition on any granted permission.

## **7 Quality of Accommodation**

7.1 Paragraph 130 of the NPPF states that planning decision should ensure that developments (inter alia) create places that are accessible, and which promote health and well-being, with a high standard of amenity for existing and future users.

7.2 Policy DM12 of the Development Management Policies Document 2015 states that all new housing developments including conversions, are required to comply with external and internal space standards and must provide appropriate external private and/or communal amenity space to meet the needs generated by the development.

7.3 The Nationally Described Space Standards 2015 sets out internal space standards for new dwellings at a defined level of occupancy. It further states that in order to provide two bed spaces, a double (or twin bedroom) must have a floor area of at least 11.5m<sup>2</sup>.

- 7.4 The following table provides and analysis of the internal floor area against technical standards:

Flat Number (bed/person)	National Standard	Proposed Internal Area
B401 (3b/5p)	86m <sup>2</sup>	92.7m <sup>2</sup>
B402 (1b/2p)	50m <sup>2</sup>	53.1m <sup>2</sup>
B403 (2b/3p)	61m <sup>2</sup>	64m <sup>2</sup>

- 7.5 The above table demonstrates that all the proposed units would exceed the technical housing standards. Furthermore, all internal primary accommodation would be served by unrestricted windows, allowing for light and air to enter and circulate the rooms they serve.
- 7.6 Officers are satisfied that the proposed units would have an acceptable level of internal amenity, complying with Policy DM12 of the Development Management Policies Document 2015 and the Nationally Described Space Standards 2015.

## 8 Proposed Amenity Space

- 8.1 Paragraph 3.36 of the supporting text for Policy DM12 of the Development Management Policies Document 2015 states that to provide adequate private amenity space for development of flats, a minimum of 5m<sup>2</sup> of private amenity space for 1-2 person dwellings should be provided and an extra 1m<sup>2</sup> should be provided for each additional occupant. A 3 person flat should have 6m<sup>2</sup> provision of private amenity space and a 5 person flat should have 8m<sup>2</sup>.

- 8.2 The private amenity space provided to serve all units are in the form of balconies as follows:

Flat Number (bed/person)	Policy Minimum	Proposed Amenity Area
B401 (3b/5p)	8m <sup>2</sup>	8.8m <sup>2</sup>
B402 (1b/2p)	5m <sup>2</sup>	8.3m <sup>2</sup>
B403 (2b/3p)	6m <sup>2</sup>	9.6m <sup>2</sup>

- 8.3 The table above demonstrates that all units either meet or exceed the minimum requirements for private amenity space set out in Policy DM12 of the Development Management Policies Document 2015.
- 8.4 It is therefore considered that the proposed units and would therefore provide sufficiently good, private amenity space to future occupiers of the development, in compliance with Policy DM12 of the Development Management Policies Document 2015.

## 9 Design and Character

### **Built Form, Pattern and Layout**

- 9.1 Paragraphs 125, 130 and 134 of the NPPF refer to the need for functional and visually attractive development that is sympathetic to local character and history. Policy CS5 of the CS requires high quality design that is attractive, relates to local distinctiveness and complements the attractive characteristics of the area. Policy DM9 of the DMPD requires a positive contribution to and compatibility with the local character and the historic and natural environment and Policy DM10 requires good design that respects, maintains or enhances the prevailing house types and sizes, density, scale, layout, height, form and massing, plot width and building separation, building lines and key features.
- 9.2 East Street is a mixed use area with a strong building line on both sides of main highway. Most of the built form faces the highway, providing active frontages. There is no uniformity in plot size, although the predominant plot character is a good distribution of frontage built form, with hard surfacing to accommodate rear vehicle parking. A number of the new developments along East Street also feature some frontage landscaping strips or accommodate trees, to bring some verdancy to this densely built form area.
- 9.3 To the west of East Street, moving towards the High Street, the built form to the south of the highway is tall and close knit, commencing with the three storey commercial units at 2a – 16a East Street and extending to the four storey Emerald House (14 East Street), part three/four storey Post Office (18 East Street) and the four storey retail unit at 20 - 40 East Street.
- 9.4 In comparison, two storey built form lines the north of East Street highway, until Crossway House and Bradford House (39 and 39a East Street), which are both five storey developments. Beyond this is the four storey Newport House (40 East Street) and then a further run of two storey built form.
- 9.5 As you move further east towards Ewell Village and particularly past the Kiln Lane junction, the built form relaxes into three and two storey development and benefits from more landscaping and greater pockets of spaciousness.
- 9.6 The existing built form on the site comprises a four storey building of no great architectural merit. The proposal would extend the height of the existing building from 13 metres (15.7 metres from lift shaft) to 15.8 metres (17.8 metres to the lift shaft).
- 9.7 Policy DM13 of the Development Management Policies Document 2015 states [inter alia] that buildings higher than 12 metres will be inappropriate in all areas of the Borough except the identified areas



within the Epsom Town Centre Boundary where buildings up to a maximum height of 16 metres will be allowed in certain locations. As defined in the Proposals Map in Plan E, the site lies in an area subject to a building height maximum of 12 metres.

- 9.8 Policy E7 of Plan E, Epsom Town Centre Area Action Plan 2011 also seeks to restrict buildings outside of identified opportunity sites (of which the current site is not one) to a height of 12 metres.
- 9.9 However, in May 2018, the Licensing and Planning Policy Committee took a decision to set aside Policy DM13 of the Development Management Policies Document 2015. This was due to the policy restricting opportunities for growth in the Borough. It should be noted that although this policy remains part of the development plan, it is afforded limited weight in the decision-making process and the presumption of sustainable development.
- 9.10 As Policy E7 of Plan E, Epsom Town Centre Area Action Plan 2011 is similar to Policy DM13 of the Development Management Policies Document 2015 in that it also restricts opportunity for growth within the Borough, it is not unreasonable to also afford it limited weight in the decision-making process and in regard to the presumption of sustainable development.
- 9.11 The built form along East Street is diverse in scale and height, with a number of buildings extending over 12 metres in height as identified in the table below:

Building Number/Name	No. of Floors	Overall Height
The Proposal	5	15.8 m (17.8 m to top lift shaft)
18 East Street	3/4	16.3m
20 – 40 East Street	4	14.3m
Crossways House (39)	5	15.7m
Bradford House (39A)	6	18.4m
Newplan House (41)	4	15.0m (to eaves)
55 East Street	4	13.6m
64-74 East Street	4	17.62m
87 East Street	3/4	14m
144 East Street	4	13m

- 9.12 To the west of the site lies 79-81 East Street, which is a site currently the subject of planning application 22/01953/FUL, that, if granted, would result in the erection of a building with an overall height of 18.8 metres. However, as existing, the building at 79-81 East Street is a part two storey, part three storey building. To the east of the site is Defore Court, a four storey building extending to 12.6 metres in height. To the rear of the site lies the two storey residential development of Linton Lane, Victoria Place and Middle Lane.

- 9.13 Within this immediate context, the resulting height of the development would be notably taller than the existing buildings it surrounds and are likely to have a greater presence than the existing situation from some surrounding viewpoints, in particular from Victoria Place and Linton Lane, where the views would be somewhat isolated as they would not be read in full context with the built form of East Street.
- 9.14 However, there are residential roads of predominantly two storey built form that view the larger buildings of East Street in isolation from the joining junctions, such as Church Road, Linden Place and Adelphi Road. The views achievable from Victoria Place and Linton Lane would be no different to these existing situations.
- 9.15 Furthermore, notwithstanding the presence of smaller scale built form in the immediate vicinity, the site itself does not fall within the character area to the far east of East Street (past the Kiln Lane junction and before the highway converts to Epsom Road), which is characterised by its low rise, open suburban character. The proposed development would instead be identifiable as part of the gradual transitional passage between this suburban character and the larger, close-knit built form to the west of East Street, denoting the approach into the town centre.
- 9.16 The height of the proposed development within the East Street streetscene would therefore not be read in isolation with the adjacent built form, but in context of these larger buildings, which would be readily apparent in longer views when travelling along East Street towards the town centre, facilitated by a bend in the highway. When travelling along East Street away from the town centre, the proposed development would be seen in context with the gradual decline of larger buildings, until the junction of Kiln Lane, when the more suburban character emerges.
- 9.17 The overall design of the proposed fourth floor is considered to be acceptable. The extension would be set back from the main mass of the host building and a façade of panels and columns and contrasting materials would add some visual interest to the existing building.
- 9.18 In light of the above, Officers are satisfied that the overall form and design of the proposed development is acceptable as it would be sympathetic to the overall character and appearance of East Street and contribute to the existing townscape.
- 9.19 Should permission be granted, it is strongly recommended that a condition to secure details of materials to be approved by the Local Planning Authority prior to development taking place on site. This is to ensure that the materials and finishes used in the construction of the development are of a high quality and are suitable for a building that marks the transition into the Town Centre.

## 10 Neighbour Amenity

- 10.1 Policy CS5 of the CS and Policy DM10 of the DMPD seeks to protect occupant and neighbour amenity, including in terms of privacy, outlook, sunlight/daylight, and noise whilst Paragraph 185 of the NPPF and Policy CS6 of the CS seek to mitigate and reduce noise impacts.
- 10.2 The neighbouring properties most affected by the proposed development would be those at third floor level at both Kingshott and Dukes House, Defoe Court, 10-12 Linton Lane and the proposed development at 79-81 East Street, currently under consideration under planning application 22/01953/FUL.

### Kingshott House/Jukes House

#### *Outlook/Overbearing Implications/Daylight/Sunlight/Overlooking/Privacy*

- 10.3 As the proposed development would be wholly located within the existing footprint of the host building, it would not create any issues of loss of outlook or overbearing impacts upon the occupiers of the existing properties below.

#### *Operational Noise/Disturbance*

- 10.4 The proposal would create three new residential dwellings above existing dwellings which, when operational, would create new domestic noise and disturbance to the occupiers below. However, the levels of noise and disturbance from the proposed internal living areas would not be to a level considered unreasonable for flatted development and when built to meet Building Regulations to eliminate noise transfer between walls and floors of flats, no objection is raised.
- 10.5 The proposal would introduce 3 balcony terraces to the host dwelling, all of which would be located above existing primary accommodation associated with the existing properties below. The use of a balcony external amenity area is considered to be no different to the use of primary internal accommodation, as future occupiers would utilise the space for entertaining in a similar manner and whilst the proposal would create new domestic noise and disturbance to the occupiers below, the levels of noise and disturbance would not be to a level considered unreasonable for flatted development.

### Defoe Court

#### *Outlook/Overbearing Implications*

- 10.6 The proposed development would retain a distance of 7.3 metres to the south west elevation of Defoe Court and 14 metres to the north west

elevation. Such distances would prevent any issues of loss of outlook or overbearing impacts upon the occupiers of this adjacent building.

*Daylight/Sunlight Implications*

- 10.7 Whilst the built form of Defoe Court facing onto East Street is four storeys in height, the rear built form of Defoe Court is two storey in scale. The existing built form of Kingshott House, Dukes House and four storey element of Defoe Court would currently result in a loss of daylight and sunlight to the living accommodation within the two storey element of Defoe Court and the proposed development is would not exacerbate this existing situation.

*Overlooking/Privacy Implications*

- 10.8 As a result of the height of the proposed development in comparison to the two storey built form of Defoe Court and a retained distance of 14.7 – 20 metres, the north and east facing windows of the proposal would not allow for any clear or direct views into the windows associated within this neighbouring property.
- 10.9 Whilst the proposal would create further opportunities to overlook the associated courtyard area of Defoe Court, this is currently overlooked by a number of properties at both Kingshott House, Dukes House and the four-storey element of Defoe Court, and the addition of further views from two additional residential units would not be significantly harmful, particularly given that this courtyard area does not offer any private amenity space of the residents of Defoe Court.

10-12 Linton's Lane

*Outlook/Overbearing Implications*

- 10.10 The proposed development would be 17 metres from the built form of 10-12 Lintons Lane and 11 metres from the rear curtilage of 10 Linton's Lane. The retention of such distances would prevent any issues of loss of outlook or overbearing impacts upon the occupiers of these adjacent properties.

*Daylight/Sunlight Implications*

- 10.11 The proposal may result is some small loss of sunlight to the far rear curtilage of 10 Linton's Lane in the for one hour early in the morning during the winter months, this would not affect the private patio area, which would continue to receive the same amount of sunlight as existing through the year.

*Overlooking/Privacy Implications*

- 10.12 The proposal would introduce a further two windows and a balcony to the north west (rear) elevation of the host building, to serve Unit B403. With regards to the proposed windows, these would obtain views of the far rear curtilage associated with 10 Linton's Lane, rather than the more private patio area, a situation already existing on site. Although the additional windows would exacerbate the overlooking situation slightly beyond the current levels of overlooking obtained from the site, this would not be so significant as to warrant a reason for the refusal of this application.
- 10.13 The proposed balcony however would allow for direct and views into the private patio area of 10 Linton's Lane from external floor area. However, appropriate privacy screening along the north west elevation of this balcony would mitigate for this direct overlooking. In the event that permission is granted, details of privacy screening can be secured by way of a condition and installed prior to occupation and retain and maintained in perpetuity.

Proposed Development at 79 – 81 East Street

*Outlook/Overbearing Implications*

- 10.14 The south west elevation of the proposed development would directly face the fourth floor north east elevation of the development currently considered under 22/01953/FUL. As a result of a distance of 10 – 13.2 metres retained between the two developments, there would be no issues of loss of outlook or overbearing impacts upon the future occupiers.

*Daylight/Sunlight Implications*

- 10.15 Due to the angle of the windows proposed on the north east elevation of the development considered under 22/01953/FUL and considering that any of the direct facing windows serve dual aspect rooms, which can gain unrestricted daylight and sunlight, the proposal would not create any issues of loss of daylight/sunlight upon the future occupiers of the potential development currently considered under 22/01953/FUL.

*Overlooking/Privacy Implications*

- 10.16 Due to the angle of the windows proposed on the north east elevation of the development considered under 22/01953/FUL and considering that any of the direct facing windows serve dual aspect rooms and are therefore restricted with obscured glazing, the proposal would not create any issues of overlooking or loss of privacy upon the future occupiers of the potential development currently considered under 22/01953/FUL.

General Amenity

- 10.17 Officers acknowledge that as a result of the increase in built form on the site, the proposal would have a greater presence upon the occupiers of the surrounding neighbouring properties than the existing situation. However, as demonstrated above, the material impacts would not be so harmful as to warrant a reason to refuse this application.
- 10.18 Whilst the proposed development is likely to generate a greater level of domestic noise this level would not be to an extent that would be incongruous within the surrounding residential context.
- 10.19 The construction phase of the development has the potential to cause disruption and inconvenience to nearby occupiers and users of the local highway network. Whilst some of these issues are transient and could be minimised through the requirements of construction hours planning conditions if permission were to be granted, given that the construction works could impact on the amenities within the host building, such as the lift and network access, any permission granted would be subject to a Construction Management Plan, which would require the applicant to carefully manage the construction impacts, including the retention of suitable access for all existing residents during the construction works.

**11 Highways, Parking and Access**

- 11.1 Policy CS16 of the CS encourages an improved and integrated transport network and facilitates a shift of emphasis to non-car modes as a means of access to services and facilities. Development proposals should provide safe, convenient, and attractive accesses for all, be appropriate for the highways network, provide appropriate and effective parking provision, both on and off-site and ensure that vehicular traffic generated does not create new, or exacerbate existing, on street parking problems, nor materially increase other traffic problems.
- 11.2 The application is supported by a Transport Statement, prepared by Lime Transport and dated December 2022. The Transport Statement gives an account of the existing local highway network and local accidental data, as well as highlighting the accessibility benefits of the site. The County Highway Authority are satisfied that this highways account gives a fair representation of the site.

Pedestrian and Vehicle Access and Manoeuvrability

- 11.1 Paragraph 110 of the NPPF requires safe and suitable access, paragraph 111 allows for refusal where there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe and paragraph 112 seeks to minimise conflicts between pedestrians, cyclists, and vehicles. This is reinforced in Policy CS16 of the CS and DM10 of the DMPD.

- 11.2 The proposal would not involve any changes or modifications to the existing vehicular and pedestrian accesses to the site.

Traffic Generation

- 11.3 The Transport Statement has predicted the additional traffic generation and traffic flow associated with the proposed development and advises that to achieve this, the TRICS (Trip Rate Information Computer System) database has been used. This has calculated that the proposal would generate an additional single vehicle movement, which would be outside of AM and PM peak times, with the main movements attributed to pedestrian (6 daily two way trips) and public transport movements (9 daily two way trips).

- 11.4 The County Highway Authority is satisfied that the TRICS assessment and the method of calculating existing traffic flows undertaken and reported within the Transport Statement provides a robust and realistic assessment of the likely impact of the proposed development on the highway network and that the residual cumulative impacts of the development would not have a material impact on the capacity of the surrounding network

Car Parking

- 11.5 Policy DM37 of the Development Management Policies Document 2015 seeks to ensure that new schemes provide an appropriate level of off-street parking to avoid a harmful impact on the surrounding area in terms of street scene or the availability of on street parking. The Council's Parking Standards for Residential Development SPD 2015 specify a minimum requirement for new residential developments.
- 11.6 In order to meet the Council's Parking Standards for Residential Development SPD 2015, the site would be expected to accommodate a further 3.0 vehicle parking spaces within the site to serve the proposed development.
- 11.7 The proposal would be a car free development. When assessing new development that does not accord with the Council's Parking Standards, the Council needs to consider whether the displacement of vehicle(s) from new development would exacerbate parking stress on surrounding areas that are currently already close to parking stress tolerance, as a result of the number of residential developments or parking restrictions within the surrounding area.
- 11.8 There are a high number of varying parking restriction in place within the surrounding highway network, ranging from double yellow lines to permit parking. These restriction limit the opportunities for future residents to park on street, resulting in a high demand for unrestricted kerbside in the area.

- 11.9 The application is supported by Parking Survey, which identifies that two parking beat surveys were carried out on the (weekday) nights of 12 and 13 October 2023, between 00:30 and 05:30, to ensure that the maximum demand for residential parking was captured.
- 11.10 The parking beat surveys have followed the Lambeth methodology, using a 200m survey area. The conclusion of the parking beats survey is that during the survey hours 139 vehicles were parking out of the 174 available spaces, equating to an 80% of available capacity.
- 11.11 Typically, practical capacity is reached when 85% of the spaces are occupied. Although the results of the parking beat survey demonstrated that there is capacity for 35 vehicle to be parked within the survey area, any further parking beyond 11 vehicle spaces would breach the 85% practical capacity.
- 11.12 However, the unrestricted parking available during the hours of the parking beat survey is as a result of the majority of the parking restrictions being lifted between the hours of 19:59 – 09:00. Whilst the parking beats surveys demonstrate that there is on street capacity to accommodate the parking of the displacement of 3.0 vehicles from the site in the hours between 19:59 – 08:59, the parking restrictions operating from 09:00 – 20:00 would prevent any restricting parking during the daytime hours.
- 11.13 The Transport Survey considers these restrictions to assist in enforcing a car free development. In the event permission is granted, a Section 106 Agreement would be entered into to prevent occupation or use of the development by a person or person(s) in possession of an Epsom and Ewell Residents Parking Zone Permit, to prevent any further parking stress on residential parking zones.
- 11.14 Notwithstanding the above, in reality, it is likely that future owners of the development that have a necessity to own a vehicle will seek out other unrestricted areas to park vehicle during the daytime hours.
- 11.15 However, there is unrestricted on street parking within 800m of the surrounding highway network (Mill Road, Windmill Lane, Bridge Road) outside of the 200m parking survey area that could accommodate for the displacement of 3.0 vehicles from the development without harmful impact on the surrounding area in terms of street scene or the availability of on street parking.
- 11.16 On balance, taking into consideration the sustainable nature of the site, the minor short fall of the parking requirement and the availability of unrestricted on street parking within 800m of the surrounding highway network, there is robust justification in this instance to consider that car free development and exception to policy.



11.17 It is noted that the County Highway Authority have recommended a condition to secure Electric Vehicle Charging Points on three 'available' parking spaces. Although there is vehicle parking shown within the location plan supporting this application, they are located outside of the development site and therefore do not form part of this current application. It is understood that these existing spaces are already dedicated to existing residents of Kingshott House. As these existing vehicle parking spaces do not form part of this application and no further parking spaces are proposed as part of the scheme, it would be unreasonable to recommend such a condition (for off-site provision), as it would not be relevant to the development to be permitted and would therefore not satisfy one of the six tests set out in paragraph 55 of the NPPF.

#### Cycle Parking

11.18 Policy DM36 of the DMPD requires the provision of cycle networks and facilities and Policy DM37 requires minimum provision of cycle storage as set out in Annexe 2 - Parking Standards for new development.

11.19 The proposal would provide secure storage for up to 4 bicycles within the site, in a dedicated cycle store located to the north of the building. Subject to a condition to secure details of the proposed cycle storage, along with the provision of a charge point for e-bikes in the event permission is granted, Officers are satisfied that the cycle storage meets the provision for cycle storage as set out in Annexe 2 - Parking Standards for new development.

#### Construction Management

11.20 In the event permission is granted, the County Highway Authority have recommended that a pre-commencement condition to secure a Construction Transport Management Plan is imposed.

## **12 Refuse and Recycling Facilities**

12.1 Policy CS6 of the CS stipulates that development should minimise waste and encourage recycling. Annex 2 of the Sustainable Design SPD sets out that storage areas for communal wheeled bins and recycling needs to allow sufficient room for both refuse and recycling containers within 6 metres of the public highway.

12.2 The proposal involves extending the existing refuse/recycling storage area serving Kingshott House, which is located adjacent to Lindon's Lane, in order to accommodate the additional waste and recycling generated by the proposed three units. The additional waste and refuse would be collected as part of the Council's existing collection service.

- 12.3 Having reviewed the refuse/recycling arrangements proposed, the Council's Transport and Waste Services Manager considers them to be acceptable in terms of capacity, storage and access.

### **13 Ecology and Biodiversity**

- 13.1 Paragraphs 174 and 180 of the NPPF, Policy CS3 of the CS and Policy DM4 of the DMPD require the conservation and enhancement of on-site biodiversity, with minimisation of impacts and the provision of mitigation measures. The duty of care extends to Regulation 9(3) of the Conservation of Habitats and Species Regulations 2017 to protect species identified under Schedule 5 of the Wildlife and Countryside Act 1981 and Schedule 2 of the Conservation of Habitats and Species Regulations 2017.
- 13.2 The site is within a SSSI Impact Risk Zone Area. However, due to the nature of the proposal being constructed above an existing footprint, there is no foreseeable harm to protected species and no objection raised. An informative is included to cease works if protected species are encountered during construction, should permission be granted.
- 13.3 The proposal involves the provision of an extensive green roof, which would contribute towards the Borough's biodiversity. Further biodiversity measures, such as bird and bat boxes would prove impractical given the existing and proposed built form, the scale and nature of the development and proximity to the town centre.

### **14 Flooding and Drainage**

- 14.1 Paragraphs 159 and 167 of the NPPF, Policy CS6 of the CS and Policy DM19 of the DMPD state that development at medium or high risk from flooding must ensure that there is no increase in flood risk, whether on or off site, and implementation of flood resilience and mitigation to reduce it to acceptable levels.
- 14.2 The application was supported by a SuDS Strategy, prepared by EAS and dated December 2022.
- 14.3 In terms of fluvial flooding, the site is located in an area of low flood risk, outside of Flood Zone 2 and 3 as identified on the Environment Agency Flood Risk Maps and therefore the proposed development, would be wholly in Flood Zone 1. As such the development has low risk of fluvial flooding. Furthermore, the access to the site is also located within Flood Zone 1 and would continue unimpeded to provide safe access to and from the residential developments in the event of a flood

- 14.4 As the proposed development would lie within Flood Zone 1, neither the sequential test or the exceptions test, as set out in the Governments guidance 'Flood risk assessment: the sequential test for applicants' 2017 needs to be carried out
- 14.5 With respect to pluvial flooding, the site lies within Ground Water Source Protection Zones 1-3 and in a Zone 2 Inner Protection Zone. Furthermore, the site is located above a Secondary A aquifer. The site is currently developed, and the run off from the existing building flows unrestricted to the surface water sewer in East Street, whilst the car park drains unrestricted into the foul sewer in Linton's Lane.
- 14.6 With regards to the most appropriate SuDS disposal method to support the proposed development, given that the proposal represents a vertical extension to the existing building, the most practical SuDS option is a green roof. This would provide some surface water attenuation by slowing the flow of water from the roof area before it enters a main drainage system. The main drainage area would be reached by extending the existing downpipes to serve the extension.
- 14.7 The Lead Local Flood Authority have confirmed that the drainage proposal satisfies the requirements of the NPPF and has recommended that should permission be granted, suitable conditions are required to secure the details of the design of the surface water drainage scheme and to ensure that it is properly implemented and maintained throughout the lifetime of the development.
- 14.8 As such, it is considered that the flood risk and surface water flooding have been addressed in accordance with Policy CS6 of the Core Strategy 2007, Policy DM19 of the Development Management Policies Document 2015 and the requirements of the NPPF 2023

## **15 Environmental Sustainability**

Policy CS6 of the CS stipulates that development should incorporate sustainable development and reduce, or have a neutral impact upon, pollution and climate change. This includes incorporation of renewable energy, use of sustainable construction methods and sustainable building design, flood management, reduction in water use and improvement of water quality and minimisation of noise, water and light pollution.

- 15.1 The application is supported by an Energy and Sustainability Statement, prepared by Love Design Studio, dated December 2022. This statement outlines that the overall energy strategy for the development capitalises of passive design measures (orientation that suits daylight/sunlight, air tight, well insulated fabric shell, efficient lighting etc) to maximise the fabric energy efficiency. The scheme includes window reveals and balconies to reduce the requirement for active cooling and proposed Air Source Heat Pumps for space heating and domestic hot water, as well as meeting

water consumption in requirements with the Council's Sustainable Design SPD.

- 15.2 For the construction phase, all timber and timber products used would be from legally harvested and traded sources. Construction Waste Management would also be considered during the post planning stage, should permission be granted, to ensure that site waste can be reduced, reused, recycled or recovered wherever possible.
- 15.3 Subject to a condition to secure these sustainable measures as part of a detailed design in the event permission is granted, the proposal would be able to secure a sustainable development outcome and would therefore accord with Policies CS1 and CS6 of the Core Strategy.

## **16 Accessibility and Equality**

- 16.1 Policy CS16 of the CS and Policy DM12 of the DMPD requires safe, convenient and attractive access to be incorporated within the design of the development.
- 16.2 The Council is required to have regard to its obligations under the Equality Act 2010, including protected characteristics of age, disability, gender, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief.
- 16.3 The proposal would be served by a lift, making it fully accessible.
- 16.4 There is third party concern that the proposal would result in the temporary closure of the existing lift as a result of the proposed development, which could have adverse impacts upon protected characteristics.
- 16.5 In the event permission is granted, it would be subject to as condition to secure a Construction Management Plan, which would require the applicant to carefully manage the construction impacts, including the retention of suitable access for all existing residents during the construction works. Such a condition would prevent any adverse impacts as a result of the development.

## **17 Climate Change**

- 17.1 On 23 July 2019, the Council committed to tackling Climate Change and addressing Epsom and Ewell Borough Council carbon emissions.
- 17.2 The site lies within a sustainable location within reasonable walking distance of six bus stops that provide good connections to wider public transport serves, such as rail services and is within reasonable walking distance of local facilities and services.
- 17.3 Furthermore, the proposal as presented would be a car free development.

## **18 Planning Obligations and Community Infrastructure Levy**

- 18.1 Paragraphs 55 and 57 of the NPPF requires consideration of whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations, but only where they are necessary, related to the development, fair and reasonable.
- 18.2 Policy CS12 of the CS and the Developer Contributions SPD require that development must be able to demonstrate that the service and community infrastructure necessary to serve the development is available, either through on-site provision or a financial contribution via a planning obligation.
- 18.3 The Community Infrastructure Levy Charging Schedule 2014 indicates that the application is liable for CIL payments because it involves additional floor area in excess of 100m<sup>2</sup>. It is payable at £125/m<sup>2</sup> index linked.

## **CONCLUSION**

## **19 Planning Balance**

- 19.1 As the Council cannot demonstrate a five-year supply of deliverable housing sites, paragraph 11 (d) of the NPPF is engaged as the policies which are most important for determining the application are out-of-date.
- 19.2 Footnote 7 to paragraph 11d (ii) indicate that policies relating to designated heritage assets are relevant to its application. In undertaking the balanced exercise set out in paragraph 202 of the Framework, whilst the proposal would result in less than substantial harm to the significance of the heritage assets, it has been demonstrated that the benefits of the scheme would outweigh that harm, whilst giving considerable importance and weight preservation of the designated heritage asset. Therefore, as there is no clear heritage reason for refusing the proposal, the tilted balance in paragraph 11d (ii) remains engaged.
- 19.3 The presumption is therefore to grant permission for sustainable development unless any adverse effects of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, or where specific policies in the Framework indicate that development should be restricted.

### Social Benefits

- 19.4 The proposed development would make a contribution towards delivering the Council's housing target and would therefore be consistent with the Framework and Council policy in so far as it seeks to significantly boost the supply of homes. Given the pressing need for housing in the Borough,

as demonstrated by the extent of the Council's housing shortfall and how long the deficit is likely to persist, this benefit is given significant weight.

- 19.5 The proposal would create a choice and mix of housing, thereby contributing towards the Borough being comprised of balanced and sustainable communities. This benefit is given moderate weight.

#### Economic Benefits

- 19.6 The proposal would provide economic benefits through employment during the construction phase and the additional expenditure in the local economy at both construction and following occupation. The construction phase is temporary and therefore this would amount to a minor benefit
- 19.7 Whilst there is no evidence to suggest that the local economy would be disadvantaged without the expenditure generated from the proposed development, it is not unreasonable to conclude that future occupiers of the development would create additional expenditure to the Borough and therefore this would amount to a minor benefit

#### Environmental Benefits

- 19.8 The scheme proposes to incorporate a sedum green roof, therefore enhancing biodiversity on site. This additional biodiversity gain would amount to a minor benefit.

#### Environmental Adverse Impacts

- 19.9 The proposal would cause less than substantial harm to the setting of the Linton's Lane Conservation Area and 1, 3, 10 and 12 Linton's Lane. Whilst Officers have given great weight to the desirability of preserving the setting of the surrounding heritage assets, in this case, the public benefits would outweigh the less than substantial harm identified.
- 19.10 The shortfall of on-site car parking spaces would not be compliant with DM37 of the Development Management Policies Document 2015. However, it is considered that robust justification exists to consider the proposed car free development as an exception to policy, given the sustainable nature of the site, the low shortfall to the policy and in considering the availability of unrestricted on street parking within 800m of the surrounding highway network. The proposal would therefore have no harmful impact on the surrounding area in terms of street scene or the availability of on-street parking in the surrounding highway network. This amounts to a minor adverse effect of the scheme.

#### Overall Balance

- 19.11 Overall, whilst there is an adverse effect in respect of this application, these would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole,

or where specific policies in the Framework indicate that development should be restricted. The application is therefore recommended for approval.

## **RECOMMENDATION**

### **PART A**

**To grant planning permission subject to the S106 Legal Agreement securing the following Heads of Terms:**

- a) **A clause to prevent occupation or use of the development by a person or person(s) in possession of an Epsom and Ewell Residents Parking Zone Permit**

**and the following conditions and informatives**

### **PART B**

**In the event that the Section 106 Agreement referred to in Part A is not completed by 14 June 2024, the Head of Place Development is authorised to refuse the application for the following reason:**

**“In the absence of a completed legal obligation under Section 106 of the Town and Country Planning Act 1990, the applicant has failed to comply with Policy SC9 and CS16 of the Core Strategy 2007 and Policies DM36 and DM37 of the Development Management Policies Document 2015.”**

### **Conditions:**

#### **1. Time Limit**

The development hereby permitted shall begin before the expiration of three years from the date of this permission.

Reason: To comply with Section 91(1) of the Town and Country Planning Act 1990 as amended by Section 51(1) of the Planning and Compulsory Purchase Act 2004.

#### **2. Approved Details**

The development hereby permitted shall be carried out in accordance with the following approved plans:

Drawing Number 2429\_PL\_051\_C  
Drawing Number 2429\_PL\_150\_B  
Drawing Number 2429\_PL\_151\_B  
Drawing Number 2429\_PL\_250\_B  
Drawing Number 2429\_PL\_251\_B

Drawing Number 2429\_PL\_252\_B

Drawing Number 2429\_PL\_253\_B

Reason: For the avoidance of doubt and in the interests of proper planning as required by Policy CS5 of the Core Strategy 2007.

### **Pre-Commencement Conditions**

#### **3. Materials**

No development shall commence unless and until details of the external materials to be used for the development shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

Reason: To secure a satisfactory appearance in the interests of the visual amenities and character of the locality in accordance with Policy CS5 of the Core Strategy 2007 and Policy DM10 of the Development Management Policies 2015.

#### **4. Construction Transport Management Plan**

No development shall commence unless and until a Construction Transport Management Plan, to include details of:

- (a) parking for vehicles of site personnel, operatives and visitors
- (b) loading and unloading of plant and materials
- (c) storage of plant and materials
- (d) provision of boundary hoarding behind any visibility zones
- (e) measures to prevent the deposit of materials on the highway
- (f) before and after construction condition surveys of the highway and a commitment to fund the repair of any damage caused
- (g) no HGV movements to or from the site shall take place between the hours of 7.30 and 9.30 am and 3.00 and 5.00 pm nor shall the contractor permit any HGVs associated with the development at the site to be laid up, waiting, in East Street during these times
- (h) on-site turning for construction vehicles (or measures for traffic management)

has been submitted to and approved in writing by the Local Planning Authority. Only the approved details shall be implemented during the construction of the development.

Reason: In order for the development not to prejudice highway safety nor cause inconvenience to other highway users in accordance with the objectives of the NPPF 2023, and to satisfy policies DM35 and DM36 of the Development Management Policies 2015 and Policy CS16 of the Core Strategy 2007.



## **5. Construction Environmental Management Plan**

No development shall commence unless and until a Construction Environmental Management Plan, to include details of, but not be limited to the following:

- (a) contact details for persons on site with overall responsibility of compliance to the CEMP
- (b) details of Resident liaison and communication, including complaints procedure
- (c) measures to prevent noise and vibrations
- (d) measures to prevent dust and protect air quality
- (e) details of any proposed artificial lighting
- (f) details of waste management and disposal of water
- (g) control of emissions
- (h) measures to prevent the loss or obstruction of access and egress for existing residents, including the use of the lift
- (i) Emergency response procedures

has been submitted to and approved in writing by the Local Planning Authority. Only the approved details shall be implemented during the construction of the development.

Reason: In order to safeguard the amenities of the occupiers of neighbouring properties in accordance with Policy DM10 of the Development Management Policies Document 2015.

## **Pre Occupation Conditions**

### **6. Refuse/Recycling Store Details**

The development hereby approved shall not be first occupied unless and until details of the facilities for the secure and covered refuse/recycle stores within the development site have been provided in accordance a scheme to be submitted to and approved in writing by the Local Planning Authority, and thereafter the said approved facilities shall be provided prior to first occupation and retained and maintained to the satisfaction of the Local Planning Authority.

Reason: To secure a satisfactory appearance in the interests of the visual amenities and character of the locality in accordance with Policy CS5 of the Core Strategy 2007 and Policy DM10 of the Development Management Policies 2015.

### **7. Cycle Store Details**

The development hereby approved shall not be first occupied unless and until facilities for the secure, covered parking of bicycles and the provision of

a charging point for e-bikes by said facilities have been provided within the development site for a minimum of 4 bicycles, in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority and thereafter the said approved facilities shall be provided, retained and maintained to the satisfaction of the Local Planning Authority.

Reason: In recognition of Section 9 'Promoting Sustainable Transport' in the National Planning Policy Framework 2019 to meet the objectives of the NPPF 2023, and to satisfy policies DM35 and DM36 of the Development Management Policies 2015.

## **8. Privacy Screening Details**

Prior to any occupation of the development hereby permitted, details of privacy screening for the development shall be submitted to and agreed in writing by the Local Planning Authority. The approved details shall be installed in accordance with the approved plans and maintained in such a condition before the terrace is first brought into use.

Reason: To protect the amenities and privacy of the adjoining residential properties in accordance with Policy DM10 of the Development Management Policies Document Adopted October 2015.

## **During and post development conditions**

### **9. Retention of Parking/Turning Areas**

The existing vehicle parking (and turning) area at the premises (as shown on the application drawings) shall be permanently retained and maintained for their designated purposes.

Reason: In order for the development not to prejudice highway safety nor cause inconvenience to other highway users in accordance with the objectives of the NPPF 2023, and to satisfy policies DM35 and DM36 of the Development Management Policies 2015 and Policy CS16 of the Core Strategy 2007.

### **10. Compliance with Sustainable Design Measures**

The development shall be carried out in strict accordance with the sustainable design measures contained in the Energy and Sustainability Statement, prepared by Love Design Studio, dated December 2022, reference 1726 and dated July 2021, prior to the first occupation of the building, and shall be maintained as such thereafter and no change shall take place without the prior written consent of the local planning authority.

Reason: To ensure that measures to make the development sustainable and efficient in the use of energy, water and materials are included in the development in accordance with Policy CS6 of the Core Strategy 2007.

### **11. Hours of Work**

Works related to the construction of the development hereby permitted, including works of demolition or preparation prior to building operations shall not take place other than between the hours of 08.00 to 18.00 hours Mondays to Fridays; 08.00 to 13.00 hours Saturdays; with no work on Saturday afternoons (after 13.00 hours), Sundays, Bank Holidays or Public Holidays

Reason: In order to safeguard the amenities of the occupiers of neighbouring properties in accordance with Policy DM10 of the Development Management Policies Document 2015.

### **12. No Additional Windows/Openings**

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting this Order) no windows or other openings shall be formed in the development hereby approved without the prior written consent of the Local Planning Authority.

Reason: To protect the amenities and privacy of the occupiers of the adjoining residential properties in accordance with Policy DM10 of the Development Management Policies Document Adopted October 2015.

### **Informatives:**

1. In dealing with the application the Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in the Core Strategy, Supplementary Planning Documents, Planning Briefs and other informal written guidance, as well as offering a full pre-application advice service, in order to ensure that the applicant has been given every opportunity to submit an application which is likely to be considered favourably.
2. Your attention is drawn to the need to comply with the relevant provisions of the Building Regulations, the Building Acts and other related legislation. These cover such works as - the demolition of existing buildings, the erection of a new building or structure, the extension or alteration to a building, change of use of buildings, installation of services, underpinning works, and fire safety/means of escape works. Notice of intention to demolish existing buildings must be given to the Council's Building Control Service at least 6 weeks before work starts. A completed application form together with detailed plans must be submitted for approval before any building work is commenced.

3. The Party Wall Act 1996 requires a building owner to notify, and obtain formal agreement from, any adjoining owner, where the building owner proposes to:

- carry out work to an existing party wall;
- build on the boundary with a neighbouring property;
- in some circumstances, carry out groundwork's within 6 metres of an adjoining building.

4. Notification and agreements under this Act are the responsibility of the building owner and are quite separate from Building Regulations, or Planning Controls. The Building Control Service will assume that an applicant has obtained any necessary agreements with the adjoining owner, and nothing said or implied by the Council should be taken as removing the necessity for the building owner to comply fully with the Party Wall Act. Further information and advice is to be found in "The Party Walls etc. Act 1996 - Explanatory Booklet".

5. It is the responsibility of the developer to ensure that the electricity supply is sufficient to meet future demands and that any power balancing technology is in place if required. Electric Vehicle Charging Points shall be provided in accordance with the Surrey County Council Vehicular, Cycle and Electric Vehicle Parking Guidance for New Development 2022. Where undercover parking areas (multi-storey car parks, basement or undercroft parking) are proposed, the developer and LPA should liaise with Building Control Teams and the Local Fire Service to understand any additional requirements. If an active connection costs on average more than £3600 to install, the developer must provide cabling (defined as a 'cabled route' within the 2022 Building Regulations) and two formal quotes from the distribution network operator showing this.

6. The developer is reminded that it is an offence to allow materials to be carried from the site and deposited on or damage the highway from uncleaned wheels or badly loaded vehicles. The Highway Authority will seek, wherever possible, to recover any expenses incurred in clearing, cleaning or repairing highway surfaces and prosecutes persistent offenders (Highways Act 1980 Sections 131, 148, 149).

7. Section 59 of the Highways Act permits the Highway Authority to charge developers for damage caused by excessive weight and movements of vehicles to and from a site. The Highway Authority will pass on the cost of any excess repairs compared to normal maintenance costs to the applicant or organisation responsible for the damage.